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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,887	08/30/2001	Robert W. Callahan	R-0086USAAPN02	1037

7590

07/18/2002

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EXAMINER

PEZZUTO, HELEN LEE

ART UNIT

PAPER NUMBER

1713

3

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-3

Office Action Summary	Application No.		Applicant(s)	
	09/942,887		CALLAHAN ET AL.	
	Examiner		Art Unit	
	Helen L. Pezzuto		1713	

-- **Th MAILING DATE of this communication app ars on the cover sheet with the corr spondenc address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

2. Claims 1 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Zupancic et al. (US-981) or Bae et al. (US-902).

U.S. 4,708,981 to Zupancic et al. discloses an interpenetrating polymer network derived from an admixture of a host and a guest polymer, which is subsequently crosslinked. Specifically, the host polymer blend of a polymer or copolymer of a phosphoric acid or sulfuric acid with others such as vinylsulfonic acid and the guest polymer is formed from various monoethylenically unsaturated monomers including various unsaturated acids and derivatives thereof.

U.S. 5,226,902 to Bae et al. is directed to a biological hydrogel, which is swellable/deswellable in response to stimuli. Suitable hydrogel forming material includes the instantly claimed water-soluble ethylenically unsaturated

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acids and derivatives thereof, thus, meeting the instant claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-41 and 43-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zupancic et al. (US-981) or Bae et al. (US-902) as discussed above and further in view of Hubbell et al. (US-870).

Prior art references disclose processes of making swellable hydrogel material derived from ethylenically unsaturated acids and acid derivatives, crosslinking agents/monomers in the presence of water. The instantly claimed species are disclosed in these references. Prior art is silent to regarding the conductivity of the resulting material. The examiner is of the position that the claimed conductivity is inherent to polymer hydrogel materials since the identical monomers are used. Prior art is silent regarding

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the further utility of radiation in the polymerization. The examiner is of the position that the employment of radiation is conventional to one skilled in the art as demonstrated in closely analogous US-870, which describe the process of making swellable gels. Accordingly, it would have been obvious to use radiation as an additional mean in the polymerization processes of US-981 and US-902 in light of the advantage taught in US-870.

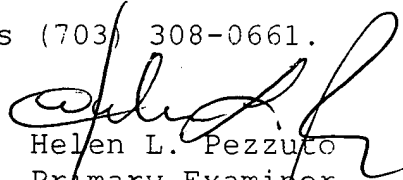
5. Applicants are advised to submit a supplemental IDS listing the prior art which has been crossed out because of incomplete information given (i.e. date of publication, inventors, etc.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen L. Pezzuto whose telephone number is (703) 308-2393. The examiner can normally be reached on 8 AM to 4 PM, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 892-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Helen L. Pezzuto
Primary Examiner
Art Unit 1713

hlp
July 1, 2002